

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICIA PLUMMER,

Petitioner,

v.

CIVIL ACTION NO. 07-CV-13857
HONORABLE GEORGE CARAM STEEH

SUSAN DAVIS,

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER
BUT GRANTING MOTION FOR ENLARGEMENT OF TIME TO FILE TRAVERSE**

This matter is before the Court on Petitioner's motion to strike Respondent's answer to her amended habeas corpus petition, as well as her motion for a 15-day enlargement of time to file a traverse to that answer. Petitioner filed the amended petition on March 3, 2008. Respondent then had 60 days – until Friday, May 2, 2008 – to file an answer to the amended petition. Respondent filed an answer on Monday, May 5, 2008, which was accepted by the Court.

Petitioner asserts that Respondent's answer should be stricken because it was untimely filed. This Court, however, has discretion to accept the answer. *See, e.g., Landa v. United States*, 991 F. Supp. 866, 867 (E.D. Mich. 1998) (court has discretion to consider a late response to a 28 U.S.C. § 2255 motion to vacate sentence); *see also Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970) (default judgment is unavailable in a 28 U.S.C. § 2254 habeas case on the ground that state officials failed to file a timely response to the petition). Accordingly, the Court **DENIES** Petitioner's motion to strike.

Petitioner also requests a 15-day enlargement of time in which to file a reply to Respondent's answer. The Court finds that such an extension is reasonable under the circumstances of this case. Accordingly, the Court **GRANTS** Petitioner's motion for enlargement of time. Petitioner shall file any reply to Respondent's answer to the amended petition on or before **July 3, 2008**.

IT IS SO ORDERED.

Dated: May 27, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

**Copies of this Order were served upon attorneys of record on
May 27, 2008, by electronic and/or ordinary mail.**

S/Josephine Chaffee
Deputy Clerk